

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**BRANDON WILDER, individually and  
on behalf of all others similarly situated,**

*Plaintiffs,*

v.

**THE KROGER CO.,**

*Defendants.*

**Case No. 1:22-cv-681**

**Judge Jeffrey P. Hopkins**

**JOINT STATUS REPORT**

During the mediation on June 14, 2023, the Parties reached an agreement in principle to settle this matter and two related matters, one of which is also currently pending in the United States District Court for the Southern District of Ohio,<sup>1</sup> the other of which remains stayed in Colorado state court.<sup>2</sup>

1. After exhaustive efforts, on September 16, 2024, the Parties (including representative plaintiffs from the related pending litigation) executed a Class Action Settlement.

2. The *Austin* Action previously was transferred from the Eastern District of Virginia to the Southern District of Ohio and is currently before the Honorable Henry E. Hudson.

3. Counsel for the plaintiffs in the *Ebersole* Action will move to lift the stay and stipulate to the transfer of the *Ebersole* Action to the Southern District of Ohio.

4. Once the *Ebersole* Action is transferred to this district, the parties intend to file a joint motion requesting consolidation of the three causes, for settlement purposes only.

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<sup>1</sup> *Austin, et al. v. The Kroger Co., et al.*, No. 1:23-cv-287 (S.D. Ohio), Honorable Henry E. Hudson, presiding. (“*Austin* Action”).

<sup>2</sup> *Ebersole v. Dillon Companies, LLC*, No. 2023-cv-30353, Denver County District Court, Colorado. (“*Ebersole* Action”).

5. Should this Court agree to consolidate the three pending actions under one cause number, the parties are prepared to seek leave to file an amended complaint pursuant to the terms of the Agreement.

6. After the filing of the amended complaint, the parties anticipate that Plaintiffs will file an Unopposed Motion for Preliminary Approval of a Class Action Settlement within ten (10) business days.

7. Should this Court so desire, the Parties are available for a status conference to discuss the Agreement and the anticipated filings.

Respectfully submitted,

/s/ Robert E. DeRose

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above was filed electronically on September 16, 2024. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Austin W. Anderson

Austin W. Anderson